



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 21

An Act to amend the Farm Products Marketing Act with respect to the payment of farm products

Introduction

**Introduced by
Mr Michel Pagé
Minister of Agriculture, Fisheries and Food**



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EXPLANATORY NOTES

The object of this bill is to provide a procedure to guarantee, subject to certain requirements and conditions, the payment of farm producers' claims relating to the marketing of a farm product.

To this end, the bill provides that the Régie des marchés agricoles may require a person who buys, receives or holds a farm product to deposit security with the Board as guarantee of financial liability in exchange of which the Board will issue a certificate establishing that this requirement has been met.

The bill also provides that a producers' board will be authorized to set up a fund to guarantee all or part of the producers' claims, impose and collect contributions from the producers to set up such a fund and determine the conditions under which they may benefit from the fund.

Finally, the bill proposes that the same powers be also granted to an association certified under the Farm Producers Act (R.S.Q., chapter P-28).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 84 of the Farm Products Marketing Act (R.S.Q., chapter M-35) is amended by striking out paragraph *b*.

2. The said Act is amended by inserting, after section 91, the following division:

“DIVISION XIV.1

“GUARANTEE OF PAYMENT OF FARM PRODUCTS

“**91.1** The Board may, by order:

(*a*) prescribe that any person or group of persons buying, holding or receiving from a producer, directly or through an agent, a farm product that it determines, must be the holder of a certificate issued by the Board and establishing that he or it has deposited with the Board a security to guarantee his or its financial liability;

(*b*) determine the amount of the security to be deposited and a method according to which this amount is to be adjusted to take into account the fluctuations in the amount of the transactions carried out by the person or group of persons contemplated in paragraph *a*;

(c) determine the conditions to be fulfilled by any person or group of persons contemplated in paragraph *a* for the issue or renewal of the certificate as well as the information and documents that must be furnished;

(d) determine the term of the certificate, its form and its content and fix a tariff of fees for the issue and renewal of the certificate;

(e) establish the time when a producer's claim becomes payable;

(f) determine the conditions that a producer must fulfill to dispose of the security and fix the percentage of any amount owing to him he is entitled to claim;

(g) establish the procedure to be followed for the realization of the security.

“91.2 No person or group of persons subject to an order made under paragraph *a* of section 91.1 may buy, hold or receive a farm product from a producer, directly or through an agent, unless that person or group is the holder of a certificate issued by the Board and establishing that the person or group has deposited with the Board the security required to guarantee his or its financial liability.

“91.3 The Board may, by order, exempt a person or group of persons or certain transactions from the application of an order made under paragraph *a* of section 91.1.

“91.4 The Board may revoke a certificate or suspend it for the period it determines if the holder no longer meets the conditions required for the issue of the certificate.

“91.5 The Board shall, before revoking or suspending a certificate, give the certificate holder the opportunity to be heard.

Notwithstanding the first paragraph, the Board may suspend a certificate for a period of not more than 15 days before hearing the certificate holder if it has reasonable grounds to believe the holder is insolvent or about to become insolvent.

A certified copy of the decision of the Board including the reasons therefor must be sent, by registered or certified mail, to the person concerned and, as the case may be, to the producer's board or certified association concerned.

“91.6 The producer's board may, by by-law,

(a) establish a fund to guarantee payment in full or in part of producers' claims relating to the marketing of a farm product and determine the terms and conditions of its establishment;

(b) impose and collect contributions from producers to be paid into the fund contemplated in paragraph *a* and establish a procedure for the collection of such contributions;

(c) classify the producers into groups and determine the amount of the contributions payable by the producers, which may vary in relation to the group to which they belong;

(d) determine the circumstances which entitle a producer to benefit from the fund contemplated in paragraph *a* and fix the percentage of any amount owing to him he is entitled to claim.

“91.7 Every association certified pursuant to the Farm Producers Act (R.S.Q., chapter P-28) may, by by-law, exercise in respect of all producers the same powers as those granted to a producers' board under section 91.6, adapted as required.

“91.8 The amounts collected from the producers by the producers' board or by the certified association for the establishment of a fund shall be deposited with the Caisse de dépôt et placement du Québec on the conditions they agree upon.

These amounts and the net income therefrom shall be used exclusively for the payment of claims payable by the fund and for the administration expenses of the fund.

No money may be withdrawn from the fund without prior authorization by the Board.

“91.9 A producers' board or a certified association may, in accordance with the terms and conditions it determines by by-law, pay to the producer, in payment of his claim, advances out of the fund contemplated in paragraph *a* of section 91.6 and in section 91.7.

“91.10 The producers' board or the certified association is subrogated in the rights of a producer against a debtor for the claims it has paid out of the fund established under paragraph *a* of section 91.6 or, as the case may be, section 91.7 and it may recover from the debtor the amounts it has paid on his behalf to the producer.

In addition, the producers' board or the certified association may exercise all the recourses of a producer as regards the realization of the security contemplated in paragraph *a* of section 91.1.

“**91.11** Sections 71 and 72, adapted as required, apply to the by-laws made under sections 91.6, 91.7 and 91.9.

“**91.12** The Board may, of its own initiative or at the request of a producers’ board or certified association, by order:

(a) require all or some of the persons who buy, hold or receive a farm product or all or some of the producers belonging to an association marketing such a product to withhold, from amounts to be paid or remitted to a producer of that product, all or part of the contributions payable by that producer to the producers’ board or certified association, as the case may be, entrusted with the administration of a fund and to remit to the board or association, on behalf of the producer, the amounts so withheld;

(b) fix the amount to be withheld by any person who buys, holds or receives a farm product or by an association of producers marketing such a product;

(c) determine the information that all or some of the persons who buy, hold or receive a farm product or all or some of the producers belonging to an association marketing such a product must furnish as to the amounts so withheld;

(d) fix the time when the amounts withheld must be remitted;

(e) determine the terms, conditions and procedure applicable to the withholding and remittance.

Any failure to comply with an order of the Board renders all or some of the buyers, holders or receivers or all or some of the producers belonging to an association liable to the board or certified association for the amount of the contributions which they should have withheld.

“**91.13** The Act respecting insurance (R.S.Q., chapter A-32) and the Insurance Brokers Act (R.S.Q., chapter C-74) do not apply to the Board, its members, a producers’ board or a certified association or its administrators, officers or employees in so far as their actions pertain to a fund established under this Act to guarantee the payment of claims to the farm producers.”

3. Every order made before (*insert here the date of coming into force of section 2*) under paragraph *b* of section 84 remains in force; it is deemed to have been made under paragraph *a* of section 91.1 enacted by section 2 of this Act.

4. This Act comes into force on (*insert here the date of assent to this Act*).